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Attorneys for Defendant, Harshad Patel

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

Plaintiff,

MARINA CAPITAL, LLC as successor in  
interest to FIDELITY DEPOSIT & DISCOUNT  
BANK

vs.

Defendants,

LEENA, SHAH, ANKIM M. SHAH, BHARAT  
PARJKH, BHUPENDRA PATEL aka BHUPEN  
PATEL, RITA SHAH, DIVYAKANT PATEL,  
HARSHAD PATEL, KETUL DESAI, BHARAT  
SHAH, and RIKESH DESAI

CIVIL ACTION  
NO. 2:16-mc-00246-JLL-JAD

**NOTICE OF MOTION TO STAY  
EXECUTION OF JUDGMENT AND STAY  
OF DISCOVERY IN AID OF LITIGANT'S  
RIGHTS PENDING THE RESOLUTION OF  
THE PROCEEDINGS IN RELATED CASE**

TO: ALL COUNSEL IN THE CAPTIONED MATTER:

PLEASE TAKE NOTICE that on January 16, 2018 at 9:00 am, or as soon thereafter as counsel may be heard, Defendant Harshad Patel will move before this Court, at the Martin Luther King, Jr. Federal Building & U.S. Courthouse, 50 Walnut Street, Newark, NJ 07101, for an order granting a stay execution of judgment and stay of discovery in aid of litigants rights pending resolution of the proceedings in a related case; and

PLEASE TAKE FURTHER NOTICE that in support of this motion, Defendant will rely upon the accompanying Brief in Support of Motion and Declaration of Michael E. Sachs, Esq.

A proposed form of Order is also submitted herewith.

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HOAGLAND, LONGO, MORAN,  
DUNST & DOUKAS, LLP  
Attorneys for Defendant, Harshad Patel

By: /S/ ROBERT G. KENNY  
ROBERT G. KENNY

Dated: December 20, 2017

CERTIFICATE OF SERVICE

The undersigned, an attorney, hereby certifies that a true and correct copy of the foregoing documents were filed on December 20, 2017 via the electronic filing system of the District of New Jersey, which will automatically serve all counsel of record:

1. Notice of Defendant's Motion to Stay Execution of Judgment and Discovery in Aid of Litigants Rights.
2. Memorandum of Law in Support of Defendant's Notice of Motion
3. Declaration of Michael E. Sachs, Esq.
3. Proposed Order.

**/s/ ROBERT G. KENNY**  
ROBERT G. KENNY

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IN THE UNITED STATES DISTRICT COURT  
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Plaintiff,

MARINA CAPITAL, LLC as successor in  
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BANK

vs.

Defendants,

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HARSHAD PATEL, KETUL DESAI, BHARAT  
SHAH, and RIKESH DESAI

CIVIL ACTION  
NO. 2:16-mc-00246-JLL-JAD

**ORDER TO STAY EXECUTION OF  
JUDGMENT AND STAY OF DISCOVERY IN  
AID OF LITIGANT'S RIGHTS PENDING THE  
RESOLUTION OF THE PROCEEDINGS IN  
RELATED CASE**

THIS MATTER having been brought before the Court on Motion of Hoagland, Longo, Moran, Dunst & Doukas, LLP, attorneys for Defendant, Harshad Patel, for an Order to Stay Proceedings Pending Resolution of Related Case in the within cause of action, and the Court having reviewed the moving papers and for good cause shown;

IT IS ON THIS \_\_\_\_\_ day of \_\_\_\_\_, 2018,

ORDERED that:

1. All execution proceedings against defendant Harshad Patel based upon the judgment entered against him in this case are stayed until further order of the Court; and
2. All discovery in aid of litigant's rights against defendant Harshad Patel based upon the judgment entered against him in this case are stayed until further order of the Court; and

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3. All other legal proceedings related to this legal matter, including execution of writs of execution and other legal proceedings against defendant Harshad Patel based upon the judgment entered against him in this case are stayed until further order of the Court.

IT IS FURTHER ORDERED that a copy of the within Order shall be served upon all counsel of record within seven (7) days of the date hereof.

---

J.S.C.

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

Plaintiff,

MARINA CAPITAL, LLC as successor in interest  
to FIDELITY DEPOSIT & DISCOUNT BANK

vs.

Defendants,

LEENA, SHAH, ANKIM M. SHAH, BHARAT  
PARJKH, BHUPENDRA PATEL aka BHUPEN  
PATEL, RITA SHAH, DIVYAKANT PATEL,  
HARSHAD PATEL, KETUL DESAI, BHARAT  
SHAH, and RIKESH DESAI

CIVIL ACTION  
NO. 2:16-mc-00246-JLL-JAD

**BRIEF IN SUPPORT OF DEFENDANT  
HARSHAD PATEL'S  
MOTION TO STAY EXECUTION OF JUDGMENT AND DISCOVERY IN AID OF LITIGANT'S  
RIGHTS PENDING RESOLUTION OF RELATED CASE**

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Harshad Patel  
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ROBERT G. KENNY, ESQ.  
On the Brief

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PRELIMINARY STATEMENT

On August 5, 2016, Fidelity Deposit & Discount Bank (the "Bank"), obtained a Judgment by Confession in the amount of \$4,154,329.98 against defendant Harshad Patel ("Patel") and several other defendants in the U.S. District Court for the Middle District of Pennsylvania in the matter captioned Fidelity Deposit & Discount Bank v. Shah, et al. Case No. 3:16-cv-01617 (the "Pennsylvania Action") See Exh A.

On August 5, 2016, the Bank registered that Judgment in this Court See Exh. B. Thereafter, the Bank assigned the Judgment to Plaintiff Marina Capital, LLC ("Plaintiff" or "Marina Capital").

On December 15, 2017, Defendant Patel, through Pennsylvania counsel, filed a Notice of Motion in the Pennsylvania Action seeking a Stay on the Execution of Judgment, A Stay of Discovery in Aid of Execution, Marking the Judgment Against him as Satisfied, or to Determine the Amount of the Deficiency Judgment (the "Pennsylvania Motion") (A copy of the motion is attached to the accompanying Declaration of Michael E. Sachs, Esq. The Pennsylvania Motion raises serious issues regarding the enforceability of the Judgment by Confession obtained in Pennsylvania. Among other things, the Pennsylvania Motion establishes that the Judgment by Confession that

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Marina Capital is currently attempting to levy upon violates the Pennsylvania Deficiency Judgment statute and seeks an Order that the judgment against Patel be marked satisfied. In light of the issues raised in the Pennsylvania Motion regarding the validity and enforceability of the Judgment by Confession in Pennsylvania and by extension the Judgment registered in this Court, Marina Capital's current efforts to execute on the Judgment by Confession as to Patel, including efforts to obtain discovery from him, should be stayed pending resolution of the Pennsylvania Motion.<sup>1</sup>

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<sup>1</sup> The undersigned counsel, Hoagland Longo Moran Dunst & Doukas, LLP will be filing a Substitution of Counsel replacing Patel's current counsel of record.



STATEMENT OF FACTS<sup>2</sup>

In 2008 and 2009, plaintiff, Fidelity Deposit & Discount Bank (the "Bank"), made loans to Clarks Summit Hospitality, LLC ("Clarks Summit") for the purchase of a hotel property and an adjacent property in Lackawanna County, Pennsylvania. The loans were guaranteed by different members of Clarks Summit. Defendant Harshad Patel is a minority investor/member of Clarks Summit and a guarantor on one of the loans.

In July 2016, the Bank obtained judgments by confession in the United States District Court for the Middle District of Pennsylvania<sup>3</sup> and registered the judgments in New Jersey, where defendant Harshad Patel and other guarantors under the loan reside.<sup>4</sup> See Exhibits "A" and "B". The judgment registered against Harshad Patel and his co-guarantors is in the amount of \$4,154,329.98. The other judgment the Bank transferred to New Jersey, on which Mr. Patel is not a guarantor, is in the amount of \$911,116.87. The Bank began execution proceedings in New Jersey.

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<sup>2</sup> The Statement of Facts is summarized from the Pennsylvania Motion which is attached to the accompanying Declaration of Michael Sachs as Exhibit A.

<sup>3</sup> Note, there is a related Pennsylvania case, docketed at 3:16-CV-01616, involving the same plaintiff and some of the same defendants, but in which Harshad Patel is not a defendant because he was not a guarantor of that underlying loan.

<sup>4</sup> This refers to the present captioned matter and related 2:16-mc-00245, for which Harshad Patel is not a guarantor.

In July 2017, the Bank purchased all of Clarks Summit real property in Lackawanna County at sheriff's sale for far less than its fair market value, and subsequently resold the property to 1101 Northern Boulevard, LLC ("1101") for \$4,100,000. See Exhibits "C" and "D". Neither the Bank, nor 1101, nor the Banks's assignee of the judgments, Marina Capital, LLC ("Marina")<sup>5</sup>, filed a petition to fix the fair market value of the real property or took any other action to establish whether a deficiency remained on the judgments after the Bank received \$4,100,000 for the property.

Marina has continued its efforts to execute against defendant Harshad Patel and/or to pursue discovery in aid of execution, notwithstanding that the creditor has not established the existence of a deficiency judgment or the amount of such deficiency if any.

On December 15, 2017, Defendant Harshad Patel filed a motion in the Pennsylvania matter 3:16-cv-01617-RPC seeking to Stay Execution of Judgment; to Stay Discovery in Aid of Execution; To Mark the Judgment Against Him Satisfied; or to Determine the Amount of the Deficiency Judgment, if any, and to Allocate the Proceeds of the Creditor's Real Property Sale Between the Outstanding Judgments.

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<sup>5</sup> See Docket No. 8, in 3:16-cv-01617-RPC, Assignment of Judgment from the Bank to Marina Capital, LLC, which is an affiliate of 1101 Northern Boulevard, LLC. The sale appears to have been an insider transaction, as one of the principals of 1101 and Marina is also the managing member of Clarks Summit.

Execution of Judgment continues in the above captioned matter. So too does Discovery in Aid of Litigant's Rights. Writs of Execution against the Defendant also continue.

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LEGAL ARGUMENT

DEFENDANT WOULD BE UNDULY PREJUDICED IF THE STAY OF JUDGMENT AND DISCOVERY IN AID OF LITIGANT'S RIGHTS IS NOT GRANTED BECAUSE THE PENDING MOTION IN THE PENNSYLVANIA MATTER CHALLENGING THE CONFESSION OF JUDGMENT FORMS THE BASIS FOR THE JUDGMENT IN THE NEW JERSEY MATTER.

Whether to stay a pending case is within the Court's sound discretion. Ethicon, Inc. v. Quigg, 849 F. 2d. 1422, 1426-27 (Fed.Cir. 1998); Motson v. Franklin Covey Co., 2005 U.S. Dist. LEXIS 34067, 2005 WL 3465664 (D.N.J. Dec. 16, 2005); Lockwood v. NationStar Mortgage, LLC, 2011 U.S. Dist. LEXIS 22939, 2011 WL 843934 (D.N.J. Mar. 8, 2011). In order to make a determination regarding whether to stay a case, Courts are tasked with a three factor test. First, the Court must decide "whether a stay would unduly prejudice or present a clear tactical disadvantage to the non-moving party", second, the Court must determine "whether a stay will simplify the issues and the trial of the case"; and third, "whether discovery is complete and a trial date has been set." Xerox Corp. v. 3Com Corp., 69 F. Supp. 2d 404, 406 (W.D.N.Y. 1999); GPAC, Inc. v. DWW Enterprises, Inc., 144 F.R.D. 60, 66 (D.N.J 1992).

In the present matter, Clarks Summit Hospitality, LLC ("Clarks Summit"), defaulted on their loan obligations related to the purchase of real property, resulting in foreclosure and eventual

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sheriff's sale on July 11, 2017 to Fidelity Deposit & Discount Bank (the "Bank") for significantly less than fair market value. Thereafter, the Bank sold the Property to 1101 Northern Boulevard, LLC ("1101"), an entity whose principal is also the Managing Member of Clarks Summit, for \$4,100,000. A separate bank loaned 1101 Northern Boulevard, LLC \$4,500,000 to complete this purchase, suggesting that this independent bank determined that the real property in question was worth significantly in excess of \$4,500,000.

In the United States District Court for the Middle District of Pennsylvania, Defendant Harshad Patel is challenging the validity of the confession of judgment that forms the basis of relief for the above captioned matter. On December 15, 2017, Defendant filed a motion challenging the validity of that judgment on the basis of failing to abide by the Deficiency Judgment Act.

The judgment in the Pennsylvania matter forms the very basis for judgment in the above captioned matter. The motion challenging that judgment brings into question whether the judgment which is being enforced in the present matter is valid or enforceable. As a result a Stay of Judgment and a Stay of the Discovery in Aid of Litigant's Rights is necessary to prevent undue prejudice to the Defendant.

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Applying the three factor test necessary for Courts to grant a Stay, it is clear that a stay is necessary to aid in the administration of justice in the present case.

The first factor, whether a stay would unduly prejudice or present a clear tactical disadvantage to the non-moving party, is not present in the existing case. In fact, any prejudice or tactical disadvantage only relates to the Defendant Patel here. This is due to the relation of the Pennsylvania judgment to the judgment on the above captioned matter. As discussed, Plaintiff obtained a confession of judgment in Pennsylvania and then registered it as a foreign judgment with the State of New Jersey where Patel resides. Thus, the legitimacy of the Judgment in the present matter is fully dependent upon the judgment in the Pennsylvania matter. Without a stay, enforcement of this judgment when the underlying judgment's validity is being questioned would result in severe prejudice to Defendant Harshad Patel.

The second factor lends further support to the importance of granting a stay in the present matter. Courts must look whether a stay will simplify the issues and the trial of the case, and it should be of little debate to see that granting a stay provides clarity and simplifies the multiple dockets in existence related to this matter. The entirety of the legal justification for the existence of the registered judgment in New Jersey (related to both 2:16-mc-00245 and the subject docket 2:16-mc-00246) is premised upon

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the enforceability of the judgments in the Pennsylvania dockets. The pending motion, challenging whether the Pennsylvania judgment has complied with the Deficiency Judgment Act raises significant questions as to whether the New Jersey judgments are valid. Thus, a stay, pending the resolution of the pending motion in Pennsylvania would significantly simplify the issues existing in the present matter. This is because that motion answers the question and would confirm whether the present judgment is valid and fully enforceable. Granting the stay in this matter would go a long way to simplifying the issues that form the basis for all of these disputes.

Finally, the court should grant the stay in the present matter pending resolution of the motion in the related Pennsylvania case because it would have no little effect on the overarching nature of discovery and other legal proceedings in this matter. As noted above, the current New Jersey case is presently in the discovery phase to aid in litigant's rights. In particular, Plaintiff is attempting to enforce the Defendant's appearance at a deposition to provide information related to the Defendant's financial situation. However, this discovery is fully dependent upon the assumption that the judgment is valid and enforceable. Presently, the motion pending in the Pennsylvania Court challenges that assumption. If the Plaintiff's judgment is found to be in violation of the Deficiency Judgment Act, the judgment forming the basis for relief in the present New Jersey matter will also need to be altered. As a

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result, there should be no hesitation with respect to the third factor when considering whether to grant a stay of execution of judgment and the related discovery to aid litigant's rights.

CONCLUSION

For all of the foregoing reasons, it is respectfully requested that the Motion for Order to Stay Proceedings Pending Resolution of Related Case be granted.

Respectfully submitted,

HOAGLAND, LONGO, MORAN,  
DUNST & DOUKAS, LLP  
Attorneys for Defendant, Harshad  
Patel

By: /S/ ROBERT G. KENNY  
ROBERT G. KENNY

Dated: December 20, 2017

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# EXHIBIT A

**FILED  
SCRANTON**

**AUG - 5 2016**

**PER**

**DEPUTY CLERK**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

**FIDELITY DEPOSIT & DISCOUNT BANK:**

**101 North Blakely Street  
Dunmore, PA 18512**

**Plaintiff**

**v.**

**LEENA SHAH**

**20 Tower Road  
Edison, NJ 08820**

**ANKIM M. SHAH**

**64 Chatsworth Court  
Edison, NJ 08820**

**BHARAT PARIKH**

**125 Eileen Drive  
Cedar Grove, NJ 07009**

**BHUPENDRA PATEL**

**aka BHUPEN PATEL  
27 Canterbury Way  
Farmingdale, NJ 07727**

**RITA SHAH**

**24 Urma Place  
Bloomfield, NJ 07003**

**JUDGE**

**JUDGMENT BY CONFESSION**

**CIVIL ACTION AT LAW**

**AND EQUITY**

*CONFESSED*  
*16-1617*

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936 Beatrice Parkway  
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aka Harshadku I. Patel  
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BHARAT SHAH  
51 Grissing Court  
Cedar Grove, NJ 07009

RIKESH DESAI  
23 Southall Court  
Wayne, NJ 07670

Defendants

**CV 16 1617**

DOCKET NO.:

JUDGMENT

NOW, this 5<sup>th</sup> day of August, 2016, judgment is hereby entered in favor of the Plaintiff, Fidelity Deposit & Discount Bank, and against the Defendants, Leena Shah, Ankim M. Shah, Bharat Parikh, Bhupendra Patel, a/k/a Bhupen Patel, Rita Shah, Divyakant Patel, Harshad Patel, a.k.a. Harshadku I. Patel, Ketul Desai, Bharat Shah, and Rikesh Desai in the sum of Four Million One Hundred Fifty-Four Thousand Three Hundred Twenty-Nine Dollars and 98/100 (\$4,154,329.98), plus continuing attorney's fees, costs and accruing interest, jointly and severally against the Defendant and in favor of Plaintiff Fidelity Deposit & Discount Bank, together with costs and accruing interest at a per diem rate of \$509.86 until the date that the obligations set forth herein are satisfied in

full.

UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF PENNSYLVANIA  
CLERK OF COURT

Peter J. Welsh, Acting

BY:

*Leporelli direct*

# **EXHIBIT B**

Case 2:16-mc-00246-JLL-JAD Document 1 Filed 08/05/16 Page 1 of 1 PageID: 1

AO 451 (Rev. 12/12) Clerk's Certification of a Judgment to be Registered in Another District

UNITED STATES DISTRICT COURT

for the

Middle District of Pennsylvania

16 mc 246

FIDELITY DEPOSIT & DISCOUNT BANK

*Plaintiff*

v.

LEENA SHAH, et al

*Defendant*

Civil Action No. 2016 CV 01617

CLERK'S CERTIFICATION OF A JUDGMENT TO BE REGISTERED IN ANOTHER DISTRICT

I certify that the attached judgment is a copy of a judgment entered by this court on (date) 8-5-2016.

I also certify that, as appears from this court's records, no motion listed in Fed. R. App. P. 4(a)(4)(A) is pending before this court, the time for appeal has expired, and no appeal has been filed or, if one was filed, it is no longer pending.

Date: 9-1-2016

CLERK OF COURT

*[Signature]*  
Signature of Clerk or Deputy Clerk

Case 2:16-mc-00246-JLL-JAD Document 1-1 Filed 08/05/16 Page 1 of 3 PageID: 2

Case 3:16-cv-01617-RPC Document 6 Filed 08/05/16 Page 1 of 3

FILED  
SCRANTON

AUG - 5 2016

PER                       
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

FIDELITY DEPOSIT & DISCOUNT BANK:

101 North Blakely Street  
Dunmore, PA 18512

Plaintiff

v.

JUDGE                     

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JUDGMENT BY CONFESSION

CIVIL ACTION AT LAW

AND EQUITY

Certified from the record

Date 9-1-2016  
Peter J. Welch, Acting Clerk

Per                       
Deputy Clerk

Case 2:16-mc-00246-JLL-JAD Document 1-1 Filed 08/05/16 Page 2 of 3 PageID: 3

Case 3:16-cv-01617-RPC Document 6 Filed 08/05/16 Page 2 of 3

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**8: CV 16 1617**

Defendants

: DOCKET NO.:

JUDGMENT

NOW, this 5<sup>th</sup> day of August, 2016, judgment is hereby entered in favor of the Plaintiff, Fidelity Deposit & Discount Bank, and against the Defendants, Leena Shah, Ankim M. Shah, Bharat Parikh, Bhupendra Patel, a/k/a Bhupen Patel, Rita Shah, Divyakant Patel, Harshad Patel, a.k.a. Harshadku I, Patel, Ketul Desai, Bharat Shah, and Rikesh Desai in the sum of Four Million One Hundred Fifty-Four Thousand Three Hundred Twenty-Nine Dollars and 98/100 (\$4,154,329.98), plus continuing attorney's fees, costs and accruing interest, jointly and severally against the Defendant and in favor of Plaintiff Fidelity Deposit & Discount Bank, together with costs and accruing interest at a per diem rate of \$509.86 until the date that the obligations set forth herein are satisfied in



Case 2:16-mc-00246-JLL-JAD Document 1-1 Filed 08/05/16 Page 3 of 3 PageID: 4


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full.

UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF PENNSYLVANIA  
CLERK OF COURT

Peter J. Welsh, Acting

BY:



Case 2:16-mc-00246-JLL-JAD Document 1-2 Filed 08/05/16 Page 1 of 1 PageID: 5  
16-mc-246 (16-1616)  
16-mc-246 (16-1617)

**NOGI, APPLETON, WEINBERGER & WREN, P. C.**

**ATTORNEYS AT LAW**

415 WYOMING AVENUE  
SCRANTON, PENNSYLVANIA 18503

TELEPHONE 570-963-8880

TELECOPIER 570-963-9372

EMAIL  
MRWREN@AOL.COM

DOUGLAS P THOMAS  
JERRY J WEINBERGER P.C.  
COUNSEL TO THE FIRM

DONALD J FENDRICK

JACOB I NOGI  
JOHN H. APPLETON  
MYLES R. WREN\*  
ANN LAVELLE POWELL  
JOHN M. MURPHY  
BRUCE C. PAUL  
JOSEPH L. DENAPLES

\*ALSO MEMBER OF NEW YORK BAR

September 2, 2016

William T. Walsh, Clerk  
United States District Court for the  
District of New Jersey  
Martin Luther King Building & U.S. Courthouse  
50 Walnut Street  
Newark, NJ 07101

**RECEIVED**

**SEP - 6 2016**

**Re: Foreign Judgment Registration Forms**

AT 8:30 \_\_\_\_\_ M  
WILLIAM T. WALSH, CLERK

Dear Clerk Walsh:

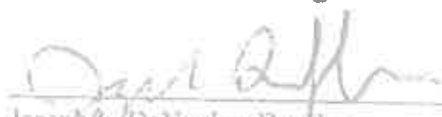
Enclosed with this correspondence, please find two (2) certified judgments entered in the United States District Court for the Middle District of Pennsylvania to terms and numbers 2016-CV-1616 and 2016-CV-1617. Attached to the Foreign Judgment registration forms are copies of the entered Judgments certified by the Middle District Court here in Pennsylvania. Also enclosed is Check No. 48810 in the amount of \$92.00 which will pay for the Court's filing fees and registrations of these Judgments.

I am also including a self-addressed stamped envelope and two (2) additional copies to be time stamped and returned to me.

Should you have any questions or concerns regarding the enclosure and the request, please contact me immediately. Thank you for your cooperation and attention to this matter.

Very Truly Yours,

Nogi, Appleton, Weinberger & Wren, P.C.

  
Joseph L. DeNaples, Esquire

JLD/sc  
Enclosure

# EXHIBIT C



**EVIE RAFALKO MCNULTY**  
 Lackawanna County Recorder of Deeds  
 Gateway Center  
 135 Jefferson Avenue  
 Scranton, Pennsylvania 18503

This is a certification page  
 \*\*\*This page is now part of this legal document - DO NOT DETACH\*\*\*



**INSTRUMENT #:** 201713690

**Receipt#:** 284970  
**Clerk:** EN  
**Rec Date:** 08/31/2017 10:45:05 AM  
**Doc Grp:** D  
**Descrip:** DEED - SHERIFF  
**Num Pgs:** 5  
**Rec'd Frm:** SHERIFF LACKAWANNA COUNTY

**Party1:** CLARKS SUMMIT HOSPITALITY LLC  
**Party2:** FIDELITY DEP & DISC BK  
**Town:** SOUTH ABINGTON TOWNSHIP

**Consideration:** 24401.79  
**Taxable Amount:** 0.00  
**Assessed Value:** 138350.00

**Recording:**

Recording Fees - ROD	15.00
Cover/Index Page	2.00
Parcel Certification	10.00
State Writ Tax	0.50
State JCS/Access to Justi	35.50
Affordable Housing	13.00
County Improvement Fee	2.00
ROD Improvement Fee	3.00

**Sub Total:** 81.00

Transfer Tax	
STATE TRANSFER TAX	0.00
SOUTH ABINGTON TOWNSHIP	0.00
ABINGTON HEIGHTS SCHOOL D	0.00

**Sub Total:** 0.00

**Total:** 81.00

\*\*\*\* NOTICE: THIS IS NOT A BILL \*\*\*\*

I hereby CERTIFY that this document is recorded in  
 the Recorder of Deeds Office of Lackawanna County,  
 Pennsylvania.



*Evelyn Rafalko McNulty*

Evelyn Rafalko McNulty  
 Recorder of Deeds

\*\* Information may change during the verification  
 process and may not be reflected on this page

**Record and Return To:**

SHERIFF LACKAWANNA COUNTY  
 COURT HOUSE  
 200 N. WASHINGTON AVE.  
 SCRANTON PA 18503  
 BOX 136

# DEED

**KNOW ALL MEN BY THESE PRESENTS**, that I, MARK P. McANDREW, Sheriff of the County of Lackawanna, in the Commonwealth of Pennsylvania, for and in consideration of the sum of **TWENTY-FOUR THOUSAND FOUR HUNDRED ONE DOLLARS AND 79/100 (\$24,401.79)** to me in hand paid, do hereby grant and convey to **FIDELITY DEPOSIT & DISCOUNT BANK**

ALL that certain lot, piece or parcel of land situate, lying and being in the **TOWNSHIP OF SOUTH ABINGTON**, County of Lackawanna and Commonwealth of Pennsylvania, designated and more specifically described in the attached

## EXHIBIT "A"

**COAL AND MINERALS** excepted and reserved as in former deeds in chain of title of said premises.

WITH IMPROVEMENTS thereon known as **RT. 6 AND 11 L1, SOUTH ABINGTON TOWNSHIP, A/K/A 1101 NORTHERN BOULEVARD, CLARKS SUMMIT**, Pennsylvania, having a Tax Parcel Number of **10004-010-00403** with an assessment value of **\$138,350.00**. The same having been sold by me on the 11<sup>th</sup> day of **JULY**, Anno Domini, two thousand seventeen (2017) as Sale Number **15**, after due advertisement according to law, under and by virtue of a Writ of Execution issued on the 12th day of **AUGUST**, Anno Domini, two thousand sixteen (2016), out of the Court of Common Pleas of the County of Lackawanna, Commonwealth of Pennsylvania, as Civil No. **16-CV-4460** at the suit of **FIDELITY DEPOSIT & DISCOUNT BANK V. CLARKS SUMMIT HOSPITALITY, LLC**.

IN WITNESS WHEREOF, I have hereunto affixed my signature, this 31<sup>st</sup> day of AUGUST, 2017.

  
\_\_\_\_\_  
Mark P. McAndrew, Sheriff

**SHERIFF SALE # 15 OF 11/15/16**

**SALE DATE: July 11, 2017**

**PROPERTY LOCATION: RT.6 AND 11 L1, SOUTH ABINGTON TOWNSHIP,  
A/K/A 1101 NORTHERN BOULEVARD,  
CLARKS SUMMIT, PA**

COMMONWEALTH OF PENNSYLVANIA:

COUNTY OF LACKAWANNA

SS.

;

BEFORE me the undersigned Clerk of Judicial Records of the Court of Common Pleas of Lackawanna County, State aforesaid, personally appeared Mark P. McAndrew, Sheriff of Lackawanna County aforesaid, and in due form of law declared that the facts set forth in the foregoing Deed are true, and that he acknowledged the same in order that the said Deed might be recorded.

WITNESS my hand and seal of said Court this 31<sup>st</sup> day of Aug., 2017.

MAURI B. KELLY  
CLERK OF JUDICIAL RECORDS  
MY COMMISSION  
EXPIRES FIRST MONDAY  
OF JANUARY 2020

Mauri B. Kelly  
Mauri B. Kelly  
Clerk of Judicial Records

I hereby certify, that the precise residence  
of the Grantee is:

101 North Blakely Street  
Dunmore, PA 18512

M. Kelly  
Agent

LEGAL DESCRIPTION PIN 10004-010-00403

ALL THAT CERTAIN piece or parcel of land situate in South Abington Township, County of Lackawanna, Commonwealth of Pennsylvania, bounded and described as follows:

BEGINNING at an iron pin along the southerly right-of-way line of Northern Boulevard (State Route 6 and 11). Said point being the northeast corner of Lot #1.

THENCE, along lands of The Inn at Nichols Village, Inc. (Lot #2) south  $46^{\circ}07'33''$  west a distance of 160.92 feet to a point;

THENCE continuing along said lands south  $42^{\circ}42'37''$  east a distance of 37.24 feet to a point;

THENCE continuing along said lands south  $47^{\circ}17'23''$  west a distance of 128.20 feet to a point;

THENCE along lands of the Delaware Hudson Railroad north  $42^{\circ}42'37''$  west a distance of 542.85 feet to a point;

THENCE north  $59^{\circ}54'53''$  east a distance of 123.43 feet to a point;

THENCE along lands of Mark Clarks Summit South Associates, L.P. south  $30^{\circ}05'07''$  east a distance of 275.04 feet to a point;

THENCE continuing along said lands north  $58^{\circ}44'35''$  east a distance of 246.32 feet to a point along the southerly right-of-way line of Northern Boulevard;

THENCE continuing along said right-of-way line along a curve to the left having a radius of 1,682.79 feet, an arc length of 158.63 feet, a chord length of 158.57 feet with a chord bearing of south  $38^{\circ}07'46''$  east to the POINT OF BEGINNING;

CONTAINING an area of 86,692 square feet or 1.99 acres more or less.

BEING the same premises conveyed to Clarks Summit Hospitality, LLC by Deed from DEPG Clarks Summit Associates, LP, dated August 18, 2009 and recorded to Lackawanna County Recorder of Deeds Instrument #200921923.

Exhibit "A"

LACKAWANNA COUNTY  
Certified Property Identification  
MUNI: 35

AUG 18 2017  
PIN: 10004-010-00403  
USE: 4600 ASSESS VAL 138,350  
CLERK Gm 10-00

REV-183 EX (2-15)



# REALTY TRANSFER TAX STATEMENT OF VALUE

See reverse for instructions.

## RECORDER'S USE ONLY

State Tax Paid \_\_\_\_\_  
Book Number \_\_\_\_\_  
Page Number 0 Sheet 201713690  
Date Recorded 8-31-17

Complete each section and file in duplicate with Recorder of Deeds when (1) the full value/consideration is not set forth in the deed, (2) the deed is without consideration or by gift, or (3) a tax exemption is claimed. If more space is needed, please attach additional sheets. A Statement of Value (SOV) is not required if the transfer is wholly exempt from tax based on family relationship or public utility easement. However, it is recommended that a SOV accompany all documents filed for recording.

**A. CORRESPONDENT** - All inquiries may be directed to the following person:

Name: **Joseph L. DeNaples, Esquire, Cipriani & Warner** Telephone Number: **(570) 347-0800**  
Mailing Address: **409 Lackawanna Avenue, Suite 402** City: **Scranton** State: **PA** ZIP Code: **18503**

**B. TRANSFER DATA**

Date of Acceptance of Document: 7/11/17  
Grantor(s)/Lessor(s): **Lackawanna County Sheriff's Office** Telephone Number: **(570) 863-6719** Grantee(s)/Lessee(s): **Fidelity Deposit & Discount Bank** Telephone Number: **(570) 504-8045**  
Mailing Address: **200 North Washington Avenue** Mailing Address: **101 North Blakely Street**  
City: **Scranton** State: **PA** ZIP Code: **18503** City: **Dunmore** State: **PA** ZIP Code: **18512**

**C. REAL ESTATE LOCATION**

Street Address: **1101 Northern Blvd** City, Township, Borough: **South Abington Township**  
County: **Lackawanna** School District: **Abington** Tax Parcel Number: **10004-010-0043**

**D. VALUATION DATA**

Was transaction part of an assignment or relocation? ☐ Y ☒ N  
1. Actual Cash Consideration: **\$24,401.79** 2. Other Consideration: **+0.00** 3. Total Consideration: **= \$24,401.79**  
4. County Assessed Value: **138,350.00** 5. Common Level Ratio Factor: **x 0.67** 6. Computed Value: **= 922,794.50**

**E. EXEMPTION DATA** - Refer to instructions for exemption status.

1a. Amount of Exemption Claimed: **\$ 922,794.50** 1b. Percentage of Grantor's Interest in Real Estate: **100.00 %** 1c. Percentage of Grantor's Interest Conveyed: **100.00 %**

**2. Check Appropriate Box Below for Exemption Claimed.**

- ☐ Will or Intestate succession. (Name of Decedent) \_\_\_\_\_ (Estate File Number) \_\_\_\_\_
- ☐ Transfer to a trust. (Attach complete copy of trust agreement identifying all beneficiaries.)
- ☐ Transfer from a trust. Date of transfer into the trust \_\_\_\_\_  
If trust was amended attach a copy of original and amended trust.
- ☐ Transfer between principal and agent/straw party. (Attach complete copy of agency/straw party agreement.)
- ☐ Transfers to the commonwealth, the U.S. and instrumentalities by gift, dedication, condemnation or in lieu of condemnation. (If condemnation or in lieu of condemnation, attach copy of resolution.)
- ☒ Transfer from mortgagor to a holder of a mortgage in default. (Attach copy of mortgage and note/assignment.)
- ☐ Corrective or confirmatory deed. (Attach complete copy of the deed to be corrected or confirmed.)
- ☐ Statutory corporate consolidation, merger or division. (Attach copy of articles.)
- ☐ Other (Please explain exemption claimed.) \_\_\_\_\_

Under penalties of law, I declare that I have examined this statement, including accompanying information, and to the best of my knowledge and belief, it is true, correct and complete.

Signature of Correspondent or Responsible Party

Date

*[Signature]* 8-1-17  
**FAILURE TO COMPLETE THIS FORM PROPERLY OR ATTACH REQUESTED DOCUMENTATION MAY RESULT IN THE RECORDER'S REFUSAL TO RECORD THE DEED.**



**KELLEY POLISHAN & SOLFANELLI, LLC**  
ATTORNEYS AT LAW

Eugene C. Kelley, Esquire  
Phone: 570-562-4520 Ext. 101  
Email: [ekelley@kpwlaw.com](mailto:ekelley@kpwlaw.com)

November 21, 2017

DANIEL P. BERNSTEIN, ESQUIRE  
CALZARETTO & BERNSTEIN, LLC  
Via Email: [d.p.bernstein1@gmail.com](mailto:d.p.bernstein1@gmail.com)


Re: Sheriff's Deed to Fidelity Deposit & Discount Bank dated August 31, 2017,  
recorded August 31, 2017 in Lackawanna County  
KPS File No. 3050.00

Dear Dan:

Attached is a copy of the Deed from the Sheriff of Lackawanna County to Fidelity which  
you requested we obtain.

Let me know if you need anything further.

Sincerely,

  
EUGENE C. KELLEY

INSTR#: 201713691 08/31/2017 DEED SHERIFF Image: 1 of 7



**EVIE RAFALKO MCNULTY**  
 Lackawanna County Recorder of Deeds  
 Gateway Center  
 135 Jefferson Avenue  
 Scranton, Pennsylvania 18503

This is a certification page

\*\*\*This page is now part of this legal document - DO NOT DETACH\*\*\*



INSTRUMENT #: 201713691

Receipt#: 284972  
 Clerk: EN  
 Rec Date: 08/31/2017 10:52:23 AM  
 Doc Grp: D  
 Descrip: DEED - SHERIFF  
 Num Pgs: 7  
 Rec'd Fm: SHERIFF LACKAWANNA COUNTY

Party1: CLARKS SUMMIT HOSPITALITY LLC  
 Party2: FIDELITY DEP & DISC BK  
 Town: SOUTH ABINGTON TOWNSHIP

Consideration: 120682.74  
 Taxable Amount: 0.00  
 Assessed Value: 768265.00

## Recording:

Recording Fees - ROD	17.50
Cover/Index Page	2.00
Parcel Certification	20.00
State Writ Tax	0.50
State JCS/Access to Justi	35.50
Affordable Housing	13.00
County Improvement Fee	2.00
ROD Improvement Fee	3.00

Sub Total: 93.50

Transfer Tax	
STATE TRANSFER TAX	0.00
SOUTH ABINGTON TOWNSHIP	0.00
ABINGTON HEIGHTS SCHOOL D	0.00

Sub Total: 0.00

Total: 93.50

\*\*\*\* NOTICE: THIS IS NOT A BILL \*\*\*\*

I hereby CERTIFY that this document is recorded in  
 the Recorder of Deeds Office of Lackawanna County,  
 Pennsylvania.



*Evelyn Rafalko McNulty*

Evelyn Rafalko McNulty  
 Recorder of Deeds

\*\* Information may change during the verification  
 process and may not be reflected on this page

Record and Return To:

SHERIFF LACKAWANNA COUNTY  
 COURT HOUSE  
 200 N. WASHINGTON AVE.  
 SCRANTON PA 18503  
 BOX 136

INSTR#: 201713691 08/31/2017 DEED - SHERIFF Image: 2 of 7

## DEED

**KNOW ALL MEN BY THESE PRESENTS**, that I, MARK P. McANDREW, Sheriff of the County of Lackawanna, in the Commonwealth of Pennsylvania, for and in consideration of the sum of **ONE HUNDRED TWENTY THOUSAND SIX HUNDRED EIGHTY-TWO DOLLARS AND 74/100 (\$120,682.74)** to me in hand paid, do hereby grant and convey to **FIDELITY DEPOSIT & DISCOUNT BANK**

ALL that certain lot, piece or parcel of land situate, lying and being in the **TOWNSHIP OF SOUTH ABINGTON**, County of Lackawanna and Commonwealth of Pennsylvania, designated and more specifically described in the attached

### EXHIBIT "A"

**COAL AND MINERALS** excepted and reserved as in former deeds in chain of title of said premises,

WITH IMPROVEMENTS thereon known as **1101 NORTHERN BLVD., SOUTH ABINGTON TOWNSHIP**, Pennsylvania, having a Tax Parcel Numbers of **10004-010-004** with an assessment value of **\$765,265.00**, and Tax Parcel Number **10113-030-01902** with an assessment value of **\$3,000.00**. The same having been sold by me on the 11<sup>th</sup> day of JULY, Anno Domini, two thousand seventeen (2017) as Sale Number 14, after due advertisement according to law, under and by virtue of a Writ of Execution issued on the 12th day of AUGUST, Anno Domini, two thousand sixteen (2016), out of the Court of Common Pleas of the County of Lackawanna, Commonwealth of Pennsylvania, as Civil No. **16-CV-4461** at the suit of **FIDELITY DEPOSIT & DISCOUNT BANK V. CLARKS SUMMIT HOSPITALITY, LLC**.

IN WITNESS WHEREOF, I have hereunto affixed my signature, this 31<sup>st</sup> day of August, 2017.

  
Mark P. McAndrew, Sheriff

SHERIFF SALE # 14 OF 11/15/16

SALE DATE: July 11, 2017

PROPERTY LOCATION: **1101 NORTHERN BLVD.,  
SOUTH ABINGTON TOWNSHIP, PA**

INSTR#: 201713691 08/31/2017 DEED - SHERIFF Image: 3 of 7

COMMONWEALTH OF PENNSYLVANIA:

SS.

COUNTY OF LACKAWANNA :

BEFORE me the undersigned Clerk of Judicial Records of the Court of Common Pleas of Lackawanna County, State aforesaid, personally appeared Mark P. McAndrew, Sheriff of Lackawanna County aforesaid, and in due form of law declared that the facts set forth in the foregoing Deed are true, and that he acknowledged the same in order that the said Deed might be recorded.

WITNESS my hand and seal of said Court this 31<sup>st</sup> day of Aug., 2017.

MAURI B. KELLY  
CLERK OF JUDICIAL RECORDS  
MY COMMISSION  
EXPIRES FIRST MONDAY  
OF JANUARY 2020

Mauri B. Kelly  
Mauri B. Kelly  
Clerk of Judicial Records

I hereby certify, that the precise residence  
of the Grantee is:

101 North Blakely Street  
Dunmore, PA 18512

M. M. M. M. M.  
Agent

INSTR# 201713691 08/31/2017 DEED - ~~SHENLY~~ Image: 4 of 7LEGAL DESCRIPTION PIN 10004-010-004 a

ALL that certain parcel of land situate in the Township of South Abington, County of Lackawanna and Commonwealth of Pennsylvania, bounded and described as follows:

BEGINNING at a point at the intersection of the original Southwesterly side of the highway formerly known as the Lackawanna Trail, now know as Northern Boulevard or SR 0006, with the Northwesterly right-of-way line of the Pennsylvania Turnpike;

THENCE in a Southwesterly direction along the Northwesterly right-of-way line of the Pennsylvania Turnpike, parallel with and distant one hundred (100) feet Northwesterly from its center line, a distance of three hundred twenty (320.00) feet, more or less, to a corner in the Northeasterly right-of-way line of the railroad formerly owned by the Delaware, Lackawanna and Western Railroad Company, and now or formerly by Consolidated Rail Corporation;

THENCE North forty-one (41) degrees fifty-four (54) minutes and thirty (30) seconds West, along the Northeasterly right-of-way line of the said railroad, a distance of five hundred forty-two and ninety-eight hundredths (542.98) feet, to an iron pin;

THENCE forty-seven (47) degrees seventeen (17) minutes twenty-three (23) seconds East, along the Southeasterly line of the said lands now or formerly of DEPG Clarks Summit Associates, LP a distance of one hundred twenty-eight and twenty hundredths (128.20) feet to an iron pin;

THENCE, North forty-two (42) degrees forty-two (42) minutes and thirty-seven (37) seconds West, a distance of thirty-seven and twenty-four hundredths (37.24) feet along lands now or formerly of DEPG Clarks Summit Associates, LP to an iron pin set;

THENCE north forty-six (46) degrees seven (07) minutes and thirty-three (33) seconds East, a distance of one hundred sixty and ninety-two hundredths (160.92) feet further along lands now or formerly of DEPG Clarks Summit Associates, LP to an iron pin set along the edge of the legal right-of-way of the former Lackawanna Trail, now known as Northern Boulevard or SR 0006;

THENCE, North forty-six (46) degrees fourteen (14) minutes ten (10) seconds East, a distance of four hundred seventy-one and five tenths (471.50) feet, along the legal right-of-way line of the former Lackawanna Trail, now known as Northern Boulevard or SR 0006, to a point, the place of beginning.

IMPROVED with various buildings utilized in the operation of the motor inn known as The Inn at Nichols Village, and the restaurant known as Basil, including motel units, a motel office and lobby, an enclosed swimming pool, tennis courts and other facilities.

SUBJECT to the rights of the public in the portions of the above described premises lying within the right-of-way line of Legislative Route No. 9 (Traffic Routes Nos. 6 and 11) as now located.

SUBJECT also to all exceptions, reservations, restrictions, conditions, and easements set forth or referred to in prior deeds and other instruments in the chain of title to the above described premises.

BEING all of Lot No. 2 shown on a certain survey of The Inn at Nichols Village performed by John R. Hennemuth, PLS, which property contains approximately 4.06 acres or 177,005 square feet, more or less.

PINS Nos 10004-010-004

BEING the same premises conveyed to Clarks Summit Hospitality, LLC d/b/a Best Western Nichols Village Inn by Deed from The Inn at Nichols Village, Inc. dated October 1, 2008 and recorded to Lackawanna County Recorder of Deeds Instrument #200824555.

Exhibit "A"

INSTR#: 201713691 08/31/2017 DEED - SHERIFF Image: 5 of 7

LEGAL DESCRIPTION PIN 10113-030-01902

ALL THAT CERTAIN lot, piece or parcel of land situate, lying and being in the Township of South Abington, County of Lackawanna and State of Pennsylvania, bounded and described as follows, to wit:

BEGINNING at a point located along the Southerly right of way of L.R. 35020 (Edella Road), said point of beginning being located at right angles to and 30 feet distant from Station 11 + 52.50 along the center line of the aforementioned L.R. 35020; thence leaving the right of way of said L.R. 35020 South 71 degrees, 56 minutes, 11 seconds East, 168.10 feet to a point along the right of way of Ramp - AB in Section 37-N of L.R. 790. Thence along said Ramp - AB South 15 degrees, 13 minutes, 49 seconds West, 132.30 feet to the northerly right of way of Ramp - CD, in Section 2-B of said L.R. 790; thence along said Ramp - CD North 85 degrees, 48 minutes, 11 seconds West, 149.75 feet to a point of curvature; thence along a curve to the left with a long chord bearing and distance of South 67 degrees, 24 minutes West, 142.46 feet to a point along the right of way of the aforementioned L.R. 35020; thence along said L.R. 35020, 34 degrees, 52 minutes, 25 second East, 272.50 feet to the place of beginning.

CONTAINING 32,856.97 square feet of land more or less as being shown on drawing B-1-88 by John R. Hennemuth and Associates, Inc., Scranton, Pennsylvania.

BEING the same premises conveyed to Clarke Summit Hospitality, LLC by Deed from George A. Nichols, Executor of the Estate of Marion Nichols Dunlap, dated December 12, 2008 and recorded to Lackawanna County Recorder of Deeds Instrument #200902972.

LACKAWANNA COUNTY  
Certified Property Identification  
MUNI: 35

AUG 18 2017  
PIN: 10004-010-004  
USE: 4000 ASSESS VAL 765,865  
CLERK Gm 10.00

LACKAWANNA COUNTY  
Certified Property Identification  
MUNI: 35

AUG 16 2017  
PIN: 10113-030-01902  
USE: 2000 ASSESS VAL 3,000  
CLERK Gm 10.00

INSTR#: 201713691 08/31/2017 DEED - SHERIFF Image: 6 of 7

REV-183 EX (2-15)



# REALTY TRANSFER TAX STATEMENT OF VALUE

See reverse for instructions.

## RECORDER'S USE ONLY

State Tax Paid \_\_\_\_\_  
Book Number \_\_\_\_\_  
Page Number Not 201713691  
Date Recorded 8-31-17

Complete each section and file in duplicate with Recorder of Deeds when (1) the full value/consideration is not set forth in the deed, (2) the deed is without consideration or by gift, or (3) a tax exemption is claimed. If more space is needed, please attach additional sheets. A Statement of Value (SOV) is not required if the transfer is wholly exempt from tax based on family relationship or public utility easement. However, it is recommended that a SOV accompany all documents filed for recording.

**A. CORRESPONDENT - All inquiries may be directed to the following person:**

Name <b>Joseph L. DeNaples, Esquire, Cipriani &amp; Werner</b>		Telephone Number: <b>(570) 347-0800</b>	
Mailing Address <b>409 Lackawanna Avenue, Suite 402</b>		City <b>Scranton</b>	State ZIP Code <b>PA 18503</b>

**B. TRANSFER DATA**

Date of Acceptance of Document <b>7/11/17</b>			
Grantor(s)/Lessor(s) <b>Lackawanna County Sheriff's Office</b>		Grantee(s)/Lessee(s) <b>Fidelity Deposit &amp; Discount Bank</b>	
Telephone Number: <b>(570) 963-8719</b>		Telephone Number: <b>(570) 504-8045</b>	
Mailing Address <b>200 North Washington Avenue</b>		Mailing Address <b>101 North Blakely Street</b>	
City <b>Scranton</b>	State <b>PA</b>	City <b>Dunmore</b>	State ZIP Code <b>PA 18512</b>

**C. REAL ESTATE LOCATION**

Street Address <b>1101 Northern Blvd</b>		City, Township, Borough <b>South Abington Township</b>
County <b>Lackawanna</b>	School District <b>Abington</b>	Tax Parcel Number <b>10113-030-01902</b>

**D. VALUATION DATA**Was transaction part of an assignment or relocation? ☐ Y ☒ N

1. Actual Cash Consideration <b>\$120,682.74</b>	2. Other Consideration <b>+0.00</b>	3. Total Consideration <b>= \$120,682.74</b>
4. County Assessed Value <b>3,000.00</b>	5. Common Level Ratio Factor <b>x 6.87</b>	6. Computed Value <b>= 20,010.00</b>

**E. EXEMPTION DATA - Refer to instructions for exemption status.**

1a. Amount of Exemption Claimed <b>\$ 20,010.00</b>	1b. Percentage of Grantor's Interest in Real Estate <b>100.00 %</b>	1c. Percentage of Grantor's Interest Conveyed <b>100.00 %</b>
--	--	--

**2. Check Appropriate Box Below for Exemption Claimed.**

- ☐ Will or intestate succession. \_\_\_\_\_ (Name of Decedent) \_\_\_\_\_ (Estate File Number)
- ☐ Transfer to a trust. (Attach complete copy of trust agreement identifying all beneficiaries.)
- ☐ Transfer from a trust. Date of transfer into the trust \_\_\_\_\_  
If trust was amended attach a copy of original and amended trust.
- ☐ Transfer between principal and agent/straw party. (Attach complete copy of agency/straw party agreement.)
- ☐ Transfers to the commonwealth, the U.S. and instrumentalities by gift, dedication, condemnation or in lieu of condemnation. (If condemnation or in lieu of condemnation, attach copy of resolution.)
- ☒ Transfer from mortgagor to a holder of a mortgage in default. (Attach copy of mortgage and note/assignment.)
- ☐ Corrective or confirmatory deed. (Attach complete copy of the deed to be corrected or confirmed.)
- ☐ Statutory corporate consolidation, merger or division. (Attach copy of articles.)
- ☐ Other (Please explain exemption claimed.) \_\_\_\_\_

Under penalties of law, I declare that I have examined this statement, including accompanying information, and to the best of my knowledge and belief, it is true, correct and complete.

Signature of Correspondent or Responsible Party

Date

**FAILURE TO COMPLETE THIS FORM PROPERLY OR ATTACH REQUESTED DOCUMENTATION MAY RESULT IN THE RECORDER'S REFUSAL TO RECORD THE DEED.**

INSTR#: 201713691 08/31/2017 DEED - SHERIFF Image: 7 of 7

REV-183 EX (2-15)

**REALTY TRANSFER TAX  
STATEMENT OF VALUE**

See reverse for instructions.

**RECORDER'S USE ONLY**

State Tax Paid \_\_\_\_\_  
Book Number \_\_\_\_\_  
Page Number Sheet 201713691  
Date Recorded 8-31-17

Complete each section and file in duplicate with Recorder of Deeds when (1) the full value/consideration is not set forth in the deed, (2) the deed is without consideration or by gift, or (3) a tax exemption is claimed. If more space is needed, please attach additional sheets. A Statement of Value (SOV) is not required if the transfer is wholly exempt from tax based on family relationship or public utility easement. However, it is recommended that a SOV accompany all documents filed for recording.

**A. CORRESPONDENT - All inquiries may be directed to the following person:**

Name <b>Joseph L. DeNaples, Esquire, Cipriani &amp; Werner</b>		Telephone Number: <b>(570) 347-0800</b>	
Mailing Address <b>409 Lackawanna Avenue, Suite 402</b>		City <b>Scranton</b>	State ZIP Code <b>PA 18503</b>

**B. TRANSFER DATA**

Date of Acceptance of Document <u>7/11/17</u>			
Grantor(s)/Lessor(s) <b>Lackawanna County Sheriff's Office</b>		Telephone Number: <b>(570) 983-8719</b>	
Grantee(s)/Lessee(s) <b>Fidelity Deposit &amp; Discount Bank</b>		Telephone Number: <b>(570) 504-8045</b>	
Mailing Address <b>200 North Washington Avenue</b>		Mailing Address <b>101 North Bleakely Street</b>	
City <b>Scranton</b>	State <b>PA</b>	ZIP Code <b>18503</b>	City <b>Dunmore</b>
			State <b>PA</b>
			ZIP Code <b>18512</b>

**C. REAL ESTATE LOCATION**

Street Address <b>1101 Northern Blvd</b>		City, Township, Borough <b>South Abington Township</b>	
County <b>Lackawanna</b>	School District <b>Abington</b>	Tax Parcel Number <b>10004-010-004</b>	

**D. VALUATION DATA**

Was transaction part of an assignment or relocation? ☐ Y ☒ N

1. Actual Cash Consideration <b>\$120,682.74</b>	2. Other Consideration <b>+0.00</b>	3. Total Consideration <b>= \$120,682.74</b>
4. County Assessed Value <b>785,285.00</b>	5. Common Level Ratio Factor <b>x 8.67</b>	6. Computed Value <b>= \$5,104,317.60</b>

**E. EXEMPTION DATA - Refer to Instructions for exemption status.**

1a. Amount of Exemption Claimed <b>\$ 5,104,317.60</b>	1b. Percentage of Grantor's Interest in Real Estate <b>100.00 %</b>	1c. Percentage of Grantor's Interest Conveyed <b>100.00 %</b>
---	--	--

**2. Check Appropriate Box Below for Exemption Claimed.**

- ☐ Will or intestate succession. \_\_\_\_\_  
(Name of Decedent) (Estate File Number)
- ☐ Transfer to a trust. (Attach complete copy of trust agreement identifying all beneficiaries.)
- ☐ Transfer from a trust. Date of transfer into the trust \_\_\_\_\_  
If trust was amended attach a copy of original and amended trust.
- ☐ Transfer between principal and agent/straw party. (Attach complete copy of agency/straw party agreement.)
- ☐ Transfers to the commonwealth, the U.S. and instrumentalities by gift, dedication, condemnation or in lieu of condemnation. (If condemnation or in lieu of condemnation, attach copy of resolution.)
- ☒ Transfer from mortgagor to a holder of a mortgage in default. (Attach copy of mortgage and note/assignment.)
- ☐ Corrective or confirmatory deed. (Attach complete copy of the deed to be corrected or confirmed.)
- ☐ Statutory corporate consolidation, merger or division. (Attach copy of articles.)
- ☐ Other (Please explain exemption claimed.) \_\_\_\_\_

Under penalties of law, I declare that I have examined this statement, including accompanying information, and to the best of my knowledge and belief, it is true, correct and complete.

Signature of Correspondent or Responsible Party

Date

**FAILURE TO COMPLETE THIS FORM PROPERLY OR ATTACH REQUESTED DOCUMENTATION MAY RESULT IN THE RECORDER'S REFUSAL TO RECORD THE DEED.**



# EXHIBIT D

**KELLEY POLISHAN & SOLFANELLI, LLC**  
ATTORNEYS AT LAW

Eugene C. Kelley, Esquire  
Phone: 570-562-4520 Ext. 101  
Email: [ekelley@kpslaw.com](mailto:ekelley@kpslaw.com)

October 13, 2017

DANIEL P. BERNSTEIN, ESQUIRE  
CALZARETTO & BERNSTEIN, LLC  
Via Email: [d.p.bernstein1@gmail.com](mailto:d.p.bernstein1@gmail.com)

Re: Clarks Summit Hospitality  
Fidelity Deposit & Discount Bank  
KPS File No. 3050.00

Dear Dan:

Attached is a deed dated August 25, 2017 and recorded October 5, 2017 in Lackawanna County showing a consideration of \$4.1 million dollars which we discussed yesterday.

Please call if you have any questions.

Sincerely,

  
EUGENE C. KELLEY



**EVIE RAFALKO MCNULTY**  
 Lackawanna County Recorder of Deeds  
 Gateway Center  
 135 Jefferson Avenue  
 Scranton, Pennsylvania 18503

This is a certification page  
 \*\*\*This page is now part of this legal document - DO NOT DETACH\*\*\*



**INSTRUMENT #: 201716037**

Receipt#: 287066  
 Clerk: MK  
 Rec Date: 10/05/2017 03:16:03 PM  
 Doc Grp: D  
 Descrip: DEED  
 Num Pgs: 7  
 Rec'd Frm: GOLDEN TITLE AGENCY, LLC

Party1: FIDELITY DEP & DISC BK  
 Party2: 1101 NORTHERN BLVD LLC  
 Town: SOUTH ABINGTON TOWNSHIP

Consideration: 4100000.00  
 Taxable Amount: 4100000.00  
 Assessed Value: 906615.00

**Recording:**

Recording Fees - ROD	16.00
Cover/Index Page	2.00
Parcel Certification	30.00
State Writ Tax	0.50
State JCS/Access to Justi	35.50
Affordable Housing	13.00
County Improvement Fee	2.00
ROD Improvement Fee	3.00

Sub Total: 102.00

Transfer Tax	
STATE TRANSFER TAX	41000.00
SOUTH ABINGTON TOWNSHIP	20500.00
ABINGTON HEIGHTS SCHOOL D	20500.00

Sub Total: 82000.00

Total: 82102.00  
 \*\*\*\* NOTICE: THIS IS NOT A BILL \*\*\*\*

I hereby CERTIFY that this document is recorded in  
 the Recorder of Deeds Office of Lackawanna County,  
 Pennsylvania.



*Evelyn Rafalko McNulty*

Evelyn Rafalko McNulty  
 Recorder of Deeds

\*\* Information may change during the verification  
 process and may not be reflected on this page

Record and Return To:

ELECTRONICALLY RECORDED BY SIMPLIFILE

6517-277

Prepared by and Return to  
**GOLDEN TITLE AGENCY**

1616 Old Cuthbert Rd.

Cherry Hill, NJ 08034

Tel: 856-427-7998

Parcel # 10004-010-00403

10004-010-004

(including 10004-010-005)

10113-030-01902.

## THIS DEED

MADE THE 25 day of September in the year of 2017.

Between **FIDELITY DEPOSIT & DISCOUNT BANK** (hereinafter referred to as "Grantor");  
and

**1101 NORTHERN BLVD LLC**, with a place of business located at c/o Falcon Companies, 3  
Becker Farm Road, Suite 404, Roseland, NJ 07068, (hereinafter referred to as "Grantee").

WITNESSETH that in consideration of Four Million One Hundred Thousand and 00/100  
(\$4,100,000) Dollars in hand paid, the receipt whereof is hereby acknowledged; the Grantor does  
hereby grant and convey the said Grantee, its Successors and Assigns,

ALL those certain pieces or parcels of property with in improvements thereon located in the  
Township of South Abington, County of Lackawanna and State of Pennsylvania, bounded and  
described as follows, to wit:

Please see legal descriptions attached hereto and incorporated herein on Exhibits "A", "B", and  
"C", respectively, Lackawanna County Parcel Identification Numbers 10004-010-00403, 10004-010-  
004 (containing legal description for PIN 10004-010-005), and 10113-030-01902.

CONTAINING collectively, +/- 6.8 acres, commonly known as 1101 Northern Boulevard,  
Clarks Summit, Pennsylvania and Edella Road, Clarks Summit, Pennsylvania.

SUBJECT to any and all exceptions, conditions, covenants, restrictions and reservations that  
may appear in the chain of title or as visible on the ground.

COAL and MINERALS excepted and reserved as in former deeds in chain of title of said  
premises.

BEING the same premises sold by Lackawanna County Sheriff Mark P. McAndrew to Fidelity  
Deposit & Discount Bank on July 11, 2017 as Sale Numbers 14 and 15, after due advertisement  
according to law, under and by virtue of a Writ of Execution issued on August 12, 2016 out of the  
Court of Common Pleas of Lackawanna County, Pennsylvania, as Civil Nos. 2016-CV-4460 and  
2016-CV-4461 at the suits of Fidelity Deposit & Discount Bank v. Clarks Summit Hospitality, LLC,  
Deeds dated August 31, 2017 recorded in the Lackawanna County Recorder of Deeds on August 31,  
2017 to Instrument Numbers 201713690 and 201713691.

LEGAL DESCRIPTION PIN 10004-010-00403

ALL THAT CERTAIN piece or parcel of land situate in South Abington Township, County of Lackawanna, Commonwealth of Pennsylvania, bounded and described as follows:

BEGINNING at an iron pin along the southerly right-of-way line of Northern Boulevard (State Route 6 and 11). Said point being the northeast corner of Lot #1.

THENCE, along lands of The Inn at Nichols Village, Inc. (Lot #2) south  $46^{\circ}07'33''$  west a distance of 160.92 feet to a point;

THENCE continuing along said lands south  $42^{\circ}42'37''$  east a distance of 37.24 feet to a point;

THENCE continuing along said lands south  $47^{\circ}17'23''$  west a distance of 128.20 feet to a point;

THENCE along lands of the Delaware Hudson Railroad north  $42^{\circ}42'37''$  west a distance of 542.85 feet to a point;

THENCE north  $59^{\circ}54'53''$  east a distance of 123.43 feet to a point;

THENCE along lands of Mark Clarks Summit South Associates, L.P. south  $30^{\circ}05'07''$  east a distance of 275.04 feet to a point;

THENCE continuing along said lands north  $58^{\circ}44'35''$  east a distance of 246.32 feet to a point along the southerly right-of-way line of Northern Boulevard;

THENCE continuing along said right-of-way line along a curve to the left having a radius of 1,682.79 feet, an arc length of 158.63 feet, a chord length of 158.57 feet with a chord bearing of south  $38^{\circ}07'46''$  east to the POINT OF BEGINNING;

CONTAINING an area of 86,692 square feet or 1.99 acres more or less.

BEING the same premises conveyed to Clarks Summit Hospitality, LLC by Deed from DEPG Clarks Summit Associates, LP, dated August 18, 2009 and recorded to Lackawanna County Recorder of Deeds Instrument #200921923.

LEGAL DESCRIPTION PIN 10004-010-004 (including 10004-010-005)

ALL that certain parcel of land situate in the Township of South Abington, County of Lackawanna and Commonwealth of Pennsylvania, bounded and described as follows:

BEGINNING at a point at the intersection of the original Southwesterly side of the highway formerly known as the Lackawanna Trail, now known as Northern Boulevard or SR 0006, with the Northwestern right-of-way line of the Pennsylvania Turnpike;

THENCE in a Southwesterly direction along the Northwestern right-of-way line of the Pennsylvania Turnpike, parallel with and distant one hundred (100) feet Northwestern from its center line, a distance of three hundred twenty (320.00) feet, more or less, to a corner in the Northeasterly right-of-way line of the railroad formerly owned by the Delaware, Lackawanna and Western Railroad Company, and now or formerly by Consolidated Rail Corporation;

THENCE North forty-one (41) degrees fifty-four (54) minutes and thirty (30) seconds West, along the Northeasterly right-of-way line of the said railroad, a distance of five hundred forty-two and ninety-eight hundredths (542.98) feet, to an iron pin;

THENCE forty-seven (47) degrees seventeen (17) minutes twenty-three (23) seconds East, along the Southeasterly line of the said lands now or formerly of DEPG Clarks Summit Associates, LP a distance of one hundred twenty-eight and twenty hundredths (128.20) feet to an iron pin;

THENCE, North forty-two (42) degrees forty-two (42) minutes and thirty-seven (37) seconds West, a distance of thirty-seven and twenty-four hundredths (37.24) feet along lands now or formerly of DEPG Clarks Summit Associates, LP to an iron pin set;

THENCE north forty-six (46) degrees seven (07) minutes and thirty-three (33) seconds East, a distance of one hundred sixty and ninety-two hundredths (160.92) feet further along lands now or formerly of DEPG Clarks Summit Associates, LP to an iron pin set along the edge of the legal right-of-way of the former Lackawanna Trail, now known as Northern Boulevard or SR 0006;

THENCE, North forty-six (46) degrees fourteen (14) minutes ten (10) seconds East, a distance of four hundred seventy-one and five tenths (471.50) feet, along the legal right-of-way line of the former Lackawanna Trail, now known as Northern Boulevard or SR 0006, to a point, the place of beginning.

IMPROVED with various buildings utilized in the operation of the motor inn known as The Inn at Nichols Village, and the restaurant known as Basil, including motel units, a motel office and lobby, an enclosed swimming pool, tennis courts and other facilities.

SUBJECT to the rights of the public in the portions of the above described premises lying within the right-of-way line of Legislative Route No. 9 (Traffic Routes Nos. 6 and 11) as now located.

SUBJECT also to all exceptions, reservations, restrictions, conditions, and easements set forth or referred to in prior deeds and other instruments in the chain of title to the above described premises.

BEING all of Lot No. 2 shown on a certain survey of The Inn at Nichols Village performed by John R. Hennemuth, PLS, which property contains approximately 4.06 acres or 177,005 square feet, more or less.

PIN No. 10004-010-004, (including 10004-010-005)

BEING the same premises conveyed to Clarks Summit Hospitality, LLC d/b/a Best Western Nichols Village Inn by Deed from The Inn at Nichols Village, Inc. dated October 1, 2008 and recorded to Lackawanna County Recorder of Deeds Instrument #200824555.

LEGAL DESCRIPTION PIN 10113-030-01902

ALL THAT CERTAIN lot, piece or parcel of land situate, lying and being in the Township of South Abington, County of Lackawanna and State of Pennsylvania, bounded and described as follows, to wit:

BEGINNING at a point located along the Southerly right of way of L.R. 35020 (Edella Road), said point of beginning being located at right angles to and 30 feet distant from Station 11 + 52.50 along the center line of the aforementioned L.R. 35020; thence leaving the right of way of said L.R. 35020 South 71 degrees, 56 minutes, 11 seconds East, 168.10 feet to a point along the right of way of Ramp - AB in Section 37-N of L.R. 790. Thence along said Ramp - AB South 15 degrees, 13 minutes, 49 seconds West, 132.30 feet to the northerly right of way of Ramp - CD, in Section 2-B of said L.R. 790; thence along said Ramp - CD North 85 degrees, 48 minutes, 11 seconds West, 149.75 feet to a point of curvature; thence along a curve to the left with a long chord bearing and distance of South 67 degrees, 24 minutes West, 142.46 feet to a point along the right of way of the aforementioned L.R. 35020; thence along said L.R. 35020, 34 degrees, 52 minutes, 25 second East, 272.50 feet to the place of beginning.

CONTAINING 32,856.97 square feet of land more or less as being shown on drawing B-1-88 by John R. Hannemuth and Associates, Inc., Scranton, Pennsylvania.

BEING the same premises conveyed to Clarks Summit Hospitality, LLC by Deed from George A. Nichols, Executor of the Estate of Marion Nichols Dunlap, dated December 12, 2008 and recorded to Lackawanna County Recorder of Deeds Instrument #200902972.

LACKAWANNA COUNTY  
Certified Property Identification  
MUNI: 35  
Date: 10/05/2017  
PIN: 10004 010 004  
USE: 4000 ASSESS VAL: 765,285  
Clerk: AN

LACKAWANNA COUNTY  
Certified Property Identification  
MUNI: 35  
Date: 10/05/2017  
PIN: 10004 010 00405  
USE: 4000 ASSESS VAL: 138,350  
Clerk: AN

LACKAWANNA COUNTY  
Certified Property Identification  
MUNI: 35  
Date: 10/05/2017  
PIN: 10113 030 01902  
USE: 4000 ASSESS VAL: 3,000  
Clerk: AN



HAZARDOUS WASTE IS NOT BEING DISPOSED OF NOR HAS IT EVER BEEN DISPOSED OF ON THE PROPERTY CONVEYED HEREIN BY THE GRANTOR OR TO THE GRANTOR'S KNOWLEDGE.

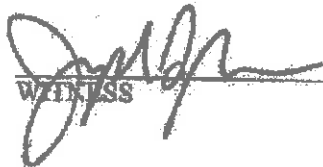
And the said Grantor will specially warrant the property hereby conveyed.

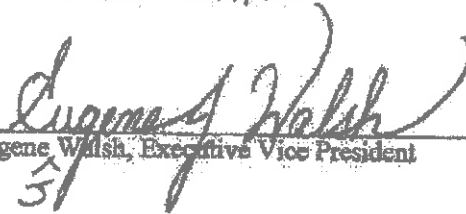
Lackawanna County Parcel Identification Numbers 10004-010-00403, 10004-010-004 (containing legal description for PIN 10004-010-005), and 10113-030-01902.

IN WITNESS WHEREOF, the Grantor has hereunto set its hand and seal the day and year first above written.

Signed, Sealed and Delivered  
in the presence of:

FIDELITY DEPOSIT &  
DISCOUNT BANK

  
\_\_\_\_\_  
Notary Public

  
\_\_\_\_\_  
Eugene Walsh, Executive Vice President  
31  
or

Commonwealth of Pennsylvania :

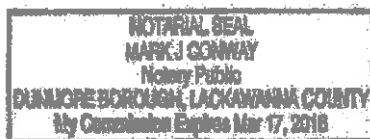
:


SS

County of Lackawanna :

:

On the 25<sup>th</sup> day of August in the year 2017, before me, the undersigned, a notary public in and for said State, personally appeared Eugene Walsh, personally known to me or proved to me on the basis of satisfactory evidence, who acknowledged himself to be the Executive Vice President of Fidelity Deposit & Discount Bank, and that he as such officer, being authorized to do so, executed the within instrument in such capacity for the purposes therein contained.



  
\_\_\_\_\_  
Notary Public

I hereby certify that the precise address of the Grantee herein is:

C/O Falcon Company, 3 Barker Farm Road, Suite 404  
Roseland, NJ

07068

  
\_\_\_\_\_  
Attorney for Grantee



REV-103 EX (2-15)



# REALTY TRANSFER TAX STATEMENT OF VALUE

RECORDER'S USE ONLY

State Tax Ref: 341006.00

See reverse for instructions.

INSTR# 2017110037  
Date Received 10-5-17

Complete each section and file in duplicate with Recorder of Deeds when (1) the full value/consideration is not set forth in the deed, (2) the deed is without consideration or by gift, or (3) a tax exemption is claimed. If more space is needed, please attach additional sheets. A Statement of Value (SOV) is not required if the transfer is wholly exempt from tax based on family relationship or public utility easement. However, it is recommended that a SOV accompany all documents filed for recording.

## A. CORRESPONDENT - All inquiries may be directed to the following person:

Name Golden Land Transfer, LLC		Telephone Number: (856) 427-7899	
Mailing Address 1815 Old Cuthbert Road		City Cherry Hill	State ZIP Code NJ 08034

## B. TRANSFER DATA

Date of Acceptance of Document <u>08/25/2017</u>			
Grantor(s)/Lessor(s) Fidelity Deposit & Discount Bank	Telephone Number: (856) 427-7899	Grantee(s)/Lessee(s) 1101 Northern Blvd LLC	Telephone Number: (856) 427-7899
Mailing Address 1101 Northern Blvd		Mailing Address 3 Becker Farm Road Suite 404	
City Clark Summit	State ZIP Code PA 08411	City Roseland	State ZIP Code NJ 07068

## C. REAL ESTATE LOCATION

Street Address 1101 Northern Blvd and Edella Road		City, Township, Borough South Abington Township
County Lackawanna	School District Abington Heights SD	Tax Parcel Number 10004-010-00403, 10004-010-00404 (including 1004-101-005), 10113-010-01902

## D. VALUATION DATA

Was transaction part of an assignment or relocation? ☐ Y ☒ N

1. Actual Cash Consideration 4,100,000.00	2. Other Consideration +0.00	3. Total Consideration = 4,100,000.00
4. County Assessed Value 808,815.00	5. Common Level Ratio Factor X 6.67	6. Computed Value = 6,047,112.06

## E. EXEMPTION DATA - Refer to instructions for exemption status.

1a. Amount of Exemption Claimed \$ 0.00	1b. Percentage of Grantor's Interest in Real Estate 100.00 %	1c. Percentage of Grantor's Interest Conveyed 100.00 %
--	---	---

## 2. Check Appropriate Box Below for Exemption Claimed.

☐ Will or Intestate succession.

(Name of Decedent)

(Estate File Number)

☐ Transfer to a trust. (Attach complete copy of trust agreement identifying all beneficiaries.)☐ Transfer from a trust. Date of transfer into the trust

If trust was amended attach a copy of original and amended trust.

☐ Transfer between principal and agent/straw party. (Attach complete copy of agency/straw party agreement.)☐ Transfers to the commonwealth, the U.S. and instrumentalities by gift, dedication, condemnation or in lieu of condemnation. (If condemnation or in lieu of condemnation, attach copy of resolution.)☐ Transfer from mortgagor to a holder of a mortgage in default. (Attach copy of mortgage and note/assignment.)☐ Corrective or confirmatory deed. (Attach complete copy of the deed to be corrected or confirmed.)☐ Statutory corporate consolidation, merger or division. (Attach copy of articles.)☒ Other (Please explain exemption claimed.) Consideration of 4,100,000.00State Transfer Tax \$41,000.00 - Local Transfer Tax \$41,000.00

Under penalties of law, I declare that I have examined this statement, including accompanying information, and to the best of my knowledge and belief, it is true, correct and complete.

Signature of Correspondent or Responsible Party

Date

09/25/17

FAILURE TO COMPLETE THIS FORM PROPERLY OR ATTACH REQUESTED DOCUMENTATION MAY RESULT IN THE RECORDER'S REFUSAL TO RECORD THE DEED.